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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE)	File No.: 603-B544
CALIFORNIA CORPORATIONS)	
COMMISSIONER,)	ACCUSATION
)	
Complainant,)	
)	
vs.)	
)	
EMERALD MORTGAGE CORP.,)	
)	
Respondent.)	
)	

The Complainant is informed and believes, and based upon such information and belief, alleges and charges Respondent as follows:

I

Respondent Emerald Mortgage Corp. (“Emerald”), a California corporation, is a broker licensed by the California Corporations Commissioner (“Commissioner”) pursuant to the California Finance Lenders Law of the State of California (California Financial Code § 22000 et seq.) (“CFL”). Emerald has been licensed as a broker under the CFL since on or about July 5, 2005. Emerald has its principal place of business at 18425 Burbank Boulevard, Suite 404, Tarzana, California 91356.

II

California Financial Code section 22101 provides that an application for a CFLL license shall be in the form and contain the information that the Commissioner may by rule require. California Financial Code section 22101 and California Code of Regulations, title 10, section 1422, requires corporate applicants to disclose to the Commissioner in the application all officers, directors, any person owning or controlling, directly or indirectly, 10% or more of the applicant, and all person(s) who would be in charge of the business.

On or about April 5, 2005, Emerald filed its application for a broker license with the Commissioner pursuant to California Financial Code section 22101 (File No. 603-B544 hereinafter the “application”). The application identified Markus Shepherd (“Shepherd”) as the president, secretary, sole director, sole shareholder and person in charge of Emerald. As required by California Code of Regulations, title 10, section 1422, the application included a Statement of Identity and Questionnaire (“SIQ”) for Shepherd. Section 1422 requires CFLL applications to include an SIQ for all officers, directors, any person owning or controlling, directly or indirectly, 10% or more of the applicant, and all person(s) who would be in charge of the business. Shepherd executed the application under penalty of perjury as president of Emerald.

III

On or about July 21, 2006, the Department of Corporations (“Department”) received information that Emerald had a new officer and/or owner and that this new officer/owner may not qualify for such positions under the CFLL. Pursuant to California Financial Code section 22108 and California Code of Regulations, title 10, section 1422, all CFLL licensees are required to amend their application(s) if there is any change in any of the persons required to be identified in the application(s). Additionally, California Code of Regulations, title 10, section 1409 requires CFLL licensees to maintain a current list of officers and directors with the Commissioner, and in the event of any change, to file with the Commissioner the same information on such new persons as is required for an original license.

On or about September 19, 2006, the Commissioner commenced an examination of the books and records of Emerald. The examination disclosed that on or about October 14, 2005,

Jonathan R. Bates (“Bates”) had acquired 50% of the outstanding shares of Emerald and had also been appointed as a director and senior vice-president of Emerald.

A review of the Department’s files on Emerald revealed that Emerald had not disclosed Bates to the Commissioner until on or about March 20, 2006, more than 5 months after Bates became an owner and officer of Emerald. Emerald made this disclosure by way of its Annual Report, Schedule K, filed with the Commissioner pursuant to California Financial Code section 22159. Emerald had listed Bates on its Schedule K as an “EVP” (executive vice-president) only. Emerald did not file any other documents in regards to Bates with the Commissioner at that time, such as the required SIQ, which would have alerted the Commissioner’s staff that this was a new officer.

The Department’s records further disclosed that Emerald finally filed an SIQ for Bates on or about July 7, 2006. The SIQ, however, failed to disclose required details of the criminal actions revealed in the SIQ and Emerald was instructed to re-submit with the proper detailed disclosures. Emerald never re-submitted the SIQ. In the SIQ, Bates identified the date of the most recent criminal action against him (later learned to be grand theft auto) as August 27, 1996. Further investigation revealed that this criminal action against Bates had not been filed until August 27, 1997, a full year later than disclosed, and the conviction had not occurred until December 1, 1997. Bates conviction is grounds for the Commissioner to revoke the CFLL license of Emerald pursuant to California Financial Code sections 22109 and 22714, as the conviction is less than 10 years old.

Based on the above, Emerald (i) failed to maintain a current list of officers and directors with the Commissioner in violation of California Code of Regulations, title 10, section 1409, (ii) violated California Financial Code section 22108 and California Code of Regulations, title 10, section 1422 by failing to timely and adequately amend its application to disclose Bates, (iii) has an unqualified owner/officer in Bates, and (iv) filed a false Annual Report and SIQ as the Annual Report only disclosed Bates as an officer and the SIQ gave a 1996 date for the most recent criminal conviction of Bates.

IV

California Financial Code section 22714 provides in pertinent part:

- (a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner

finds any of the following:

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

California Financial Code section 22109 provides in pertinent part:

(a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(2) Any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years (A) been convicted of or pleaded nolo contendere to a crime, or (B) committed any act involving dishonesty, fraud, or deceit, if the . . . act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

V

Complainant finds that, by reason of the foregoing, Respondent Emerald has violated California Financial Code section 22108 and California Code of Regulations, title 10, sections 1409 and 1422, and that a fact(s) or condition(s) now exists, that if they had existed at the time of original licensure, reasonably would have warranted the Commissioner in refusing to issue the license to Emerald, and based thereon, grounds exist to revoke the finance lenders license of Emerald.

WHEREFORE, IT IS PRAYED that the CFLL license of Respondent Emerald be revoked.

Dated: October 17, 2006
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel